

MINUTES
GAMING ADVISORY COUNCIL

April 4th and 5th, 2002
Scott Hart Auditorium
Helena, Montana

Please note: This is a summary of the Council meeting. The meeting in it's entirety is on tape at the Gambling Control Division office at 2550 Prospect Avenue, Helena, Montana. Exhibits are on file in the office of the Gambling Control Division.

COUNCIL MEMBERS PRESENT

Senator Dale Mahlum, Chairman
John Tooke
Tom Scott
Representative John Witt
S. Kevin Howlett

Steve Morris
Bill Thomas
Dennis Taylor
Tim Carson

DIVISION STAFF PRESENT

Gene Huntington
Rick Ask
Kathy Fisher

Ben Kamerzel
Kathy Baertsch
Michael L. Fanning

SUMMARY OF COUNCIL ACTION

- ♠ **Rich E. Miller, Executive Director, Gaming Industry Association reported on Problem Gambling Programs**

- ♣ **Gene Huntington, Gambling Control Division Administrator, advised the Council on the status of the Automated Accounting and Reporting System. Motion passed unanimously that the Division adopt SAS protocol standards in administrative rule.**

- ♥ **Discussed promotional games of chance and unanimously agreed to accept the proposed modification to 23.16.3501.**

- ◆ **Discussed Funding of Gambling Control Operations and options for additional funding.**
- ♠ **Discussed Internet gambling and the implications for Montana. The Council decide to ask the Attorney General for legal advise and will revisit this issue in the future. The Division will monitor Nevada's efforts.**
- ♣ **Discussed the combined liquor and gambling application. Motion passed unanimously that the Division draft legislation dealing with the combined license process.**
- ♥ **Discussed non-institutional loans. Motion passed unanimously to accept the amendments to administrative rule 23.16.120.**
- ◆ **Discussed minor legislative changes. Council moved that the Division draft legislation to address the statute of limitations on violations of the gambling statutes and rules.**
- ♠ **Attorney General, Mike McGrath welcomed the Council and commented on the combined liquor/gambling application. The Council requested the Division to track the time-line of the new application process and report back to the Council.**
- ♣ **The Council passed a motion advising the Division to adopt rules allowing bill acceptors to accept bills in \$1 - 20 denominations.**
- ♥ **The Council formed a sub-committee to address problem gambling and to work with the industry informing social workers, district judges etc. of the available resources.**

CALL TO ORDER AND ROLL CALL

Chairman Mahlum called the meeting to order at 1:07 p.m. Roll call was taken. All members were present. The minutes from the October 26, 2001 meeting were adopted unanimously.

PROBLEM GAMBLING PROGRAMS

Rich E. Miller, Executive Director, Gaming Industry Association, stated that the Montana Council on Problem Gambling had been working on this problem for three years. The Council supports the Hotline for problem gamblers. Mr. Miller presented two handouts: Hot Line Statistics Since Inception and a report from The Wager magazine on treatment for problem gambling. The Montana group treatment program for problem gamblers

costs each participant \$5 per session. The \$85 balance is paid by the Montana Council on Problem Gambling. The industry supports the funding for this 100 percent. There has been a television campaign with 30 second advertising and posters and billboards in six cities in Montana. Montana television stations have split the costs of these public service announcements. The gaming industry underwrites these programs and has no intention of requesting future Legislative funding. Bill Thomas suggested that the Council formally recognize the industry for their support and success in this endeavor. Chairman Mahlum asked Mr. Miller if the industry has enough money to take care of this program and Mr. Miller responded that the industry is comfortable with the expense. Mr. Scott asked how many counseling locations are in the state and Mr. Miller stated that there are 16 and that if there was a demand for a location in another area, service would be provided.

AUTOMATED ACCOUNTING AND REPORTING SYSTEM

Gene Huntington, Gambling Control Division Administrator addressed the Council and gave them an update on the status of the automated accounting and reporting system litigation with (LGS). Mr. Huntington stated that the State was involved in active negotiations with LGS and the system had been brought in and tested by a private engineer who had concluded that the system was incomplete. He added that a trial has been scheduled for January 2003 and that settlement would need to take place in the near future in order to prepare for litigation.

Mr. Huntington stated that the merger of VLC and IGT affects the number of machines eligible to hook up to a central system. This company has made the decision not to support older machines which reduces the number of eligible machines from around 9,000 in year 2000 to less than 5,000 currently. Mr. Huntington discussed changes which need to be addressed by Legislation: fewer eligible machines; lack of funding and the need to clarify funding intent; and a change in responsibility for the DCS. Mr. Huntington then addressed legislative proposals to address the reduced number of machines and less funding:

1. Changing the volunteering requirement to eliminate the 70% volunteer requirement and replace it with a requirement that all locations must be connected in 10 years or at the time the location changes owners or volunteers. He stated that incentives for volunteering would be retained (i.e. multiple games and tax credits).
2. Clarify the funding intent - Mr. Huntington stated that it needs to be made clear that funds that have been dedicated to the system can be spent for support and operation of AARS and that the funds will not be spent to purchase equipment for locations.
3. Authorize the Division to Modify Bill Acceptors - Mr. Huntington stated that the Division needs clarification that it can changed the denomination of bill acceptors for VGMS.

4. Authorize Licensing and Training for AARS Service Technicians - Mr. Huntington said that the Division would provide for training of private sector service employees who could service the AARS systems with the locations.

5. Extend tax credits - Mr. Huntington addressed the issue of providing for a long-term extension of the tax credit for converting machines given the anticipated longer period for installation of the system.

Mr. Howlett stated that he considered it a disincentive if it was going to cost an establishment to hook up to the system. Mr. Carson asked who would own the DCS equipment and Mr. Huntington responded that either the route operator or the establishment machine owner would own the DCS.

Chairman Mahlum asked Mr. Carson what was needed to hook new machines up to AARS. Mr. Carson stated that the machines use protocol SAS communication. Mr. Carson stated that we need to get to a standard system with integrity.

Mr. Staples declared that there is a dynamic balance between the manufacturers/route operators and locations and that "voluntary" was the switch that made locations the most interested in AARS. He stated that the 10-year factor takes out the voluntary provision and then a location has to buy new machines or go to a vendor before they may be ready to do so. He advised the Council that locations think that this is an alarming proposal. Mr. Tooke stated that being voluntary was important and that the timeline also bothers him.

Mr. Burt Johnston, Fort Peck Tribes, stated that his wife owns an establishment and that they want an easy system that doesn't treat the owners like crooks. Chairman Mahlum stated that the AARS system will make it easier for everybody and that it is not being implemented because the State thinks people are crooks.

Mr. Scott asked if there is a protocol requirement for new machines. Mr. Huntington replied that SAS protocol standard is the only thing available. Mr. Scott asked if a separate CPU machine would be needed for each establishment and Ben Kameron, Technical Services Supervisor, stated that one DCS would be needed per establishment.

Mr. Carson moved that the Division adopt SAS standards formally in the Administrative Rules and Mr. Howlett seconded the motion. The motion passed unanimously.

PROMOTIONAL GAMES OF CHANCE

Mr. Huntington explained the definition of promotional games of chance and added that there are two kinds of issues relating to promotional gambling: one group of issues involved businesses, radio stations and newspapers that are running a promotion which is similar to a legal form of gambling such as a lottery drawing of winners and the second kind of issues involves gambling establishments who wish to use different kinds of devices that may have been designed for gambling or used for gambling in another state.

Mr. Huntington explained the possible options for changing the law or rules relating to promotional activities. Bill Thomas moved to accept the proposed changes to 23.16.3501. Mr. Carson seconded the motion. The motion passed unanimously.

FUNDING OF GAMBLING CONTROL OPERATIONS

Mr. Huntington summarized the steps that the Division has taken to reduce expenditures to maintain a positive balance in the fund. He explained that the Division has limited all discretionary funding, held vacant positions open and offered an incentive or early retirement in order to get expenditures in line with revenue. He added that although the 2001 Legislature authorized 48 FTE, the Division will drop to 39 FTE during fiscal year 2003. Mr. Huntington explained that the revenue to the fund is no longer growing and is likely to decrease. Mr. Huntington said that the Gambling Control Division is funded solely from fees and does not receive any of the video gambling machine gross income tax which is deposited in the general fund. He explained that without increased funding the Division will need to continue to reduce staff and service levels as inflation and future pay plans must be funded from a flat to declining source of revenue.

Mr. Huntington discussed the four policy options for addressing the Division's funding needs:

1. Continue to reduce the tax collection and enforcement activities of the Division.
2. Change the allocation of the VGM permit fees between state and local governments to increase the GCD share to 70%.
3. Increase the fees for VGM permits from \$200 to \$245 and alter the split with local governments to dedicate the increase to paying for GCD expenditures.
4. Dedicate a small percentage of the VGM gross income tax to pay for the expenses of GCD.

Mr. Taylor stated that there needs to be funding to ensure adequate staffing for the Division. Mr. Tooke stated that he preferred taking the money from the gaming tax and Mr. Carson concurred with Mr. Tooke.

Rich Miller stated that raising the VGM permit fees approximately 25% would reduce the number of machines licensed. Chairman Mahlum commented that the average machine makes \$15,000/year and that \$45 does not appear to him to be a prohibitive cost increase. Mr. Scott asked if it is possible to have both keno and poker games in one machine - why not license games - not machines. Mr. Carson stated that licensing a device is not dependent on its contents. Further discussion was postponed until the following morning.

INTERNET GAMBLING

Mr. Huntington explained that Montana's Constitution and statutes make it clear that all gambling is illegal unless specifically authorized by the Legislature, thus Internet

gambling can be assumed to be illegal. He further explained that extending credit for purposes of gambling is clearly illegal in Montana and that most Internet gambling depends on the use of credit cards. Mr. Huntington advised the Council that Nevada is proposing to adopt regulations to allow Internet gambling from large casinos in Nevada.

Mr. Scott stated that that he did not know why Montana would even consider allowing internet gambling. He said that it is not lawful and Montana should not have to make it illegal. Mr. Morris reiterated that credit gambling is illegal.

Mr. Howlett requested legal advise from the Attorney General and that this topic be revisited in the future. Mr. Taylor requested that the Division monitor Nevada's efforts.

COMBINING THE APPLICATION PROCESS FOR GAMBLING AND LIQUOR

Lee Baerlocher, Department of Revenue, Liquor Division, discussed the review process for liquor and gambling licenses. He stated that on April 1, 2002 the Gambling Control Division will begin to process a single application form for liquor and gambling licenses. Mr. Baerlocher explained the areas of difference which have been identified.

Mr. Huntington explained the need for legislation to modify existing law to allow the Gambling Control Division to be the agency designated to receive the liquor application. Mr. Huntington stated that most of the issues can be resolved administratively.

Mr. Thomas asked if a bill could be drafted for all of the changes and Mr. Huntington stated that a bill will be needed to clean up the coordination of licensing. Mr. Howlett moved that the Division draft legislation dealing with this issue and Rep. Witt seconded the motion. The motion passed unanimously.

NON-INSTITUTIONAL LOANS

Richard Ask, Operations Bureau Chief, Gambling Control Division, discussed the proposed rule change concerning non-institutional loans. Mr. Ask stated that with the proposed change in administrative rule an owner could give funds to the business as long as the funds come from himself. A motion was made by John Tooke and seconded by Dennis Taylor to accept the proposed changes to 23.16.120. The motion was unanimous.

MINOR LEGISLATIVE PROPOSALS FOR 2003 LEGISLATURE

Mr. Huntington discussed proposing legislation to allow for the revocation of a lapsed license. Mr. Carson stated that he is in favor of closing the loophole. Mr. Scott stated that he was not sure that a rule would change the issue of the mootness issue of no license

existing to revoke. Chairman Mahlum requested that the Division look in to this issue and report back to the Council at the next meeting.

Mr. Huntington discussed clarifying statutes related to ownership. Rich Miller stated that all of the proposals were objectionable. Rhonda Carpenter, Montana Coin Machine Operators, and Tim Carson agreed with Mr. Miller. The Council agreed to table this issue for now.

Mr. Huntington also indicated that the Division would like to clarify the issue of the statute of limitations on gambling violations. This issue is raised from time to time and would be eliminated as an issue if the limitation could be defined in law. Mr. Tooke asked how other states deal with this issue and Mr. Huntington stated that the Division would investigate further and inform the Council of its findings at the next Council meeting. Mr. Scott moved that the Division draft its statute of limitations comparable to the criminal statute of limitations. Mr. Tooke seconded the motion. The vote passed 8-1 with Chairman Mahlum opposed.

The meeting adjourned at 5:07 p.m.

FRIDAY APRIL 5, 2002

CALL TO ORDER AND ROLL CALL

Chairman Mahlum called the meeting to order at 8:40 a.m. Roll call was taken. All members were present except for Kevin Howlett who was excused.

ATTORNEY GENERAL MIKE MCGRATH

Montana Attorney General, Mike McGrath addressed the Council. He thanked them for their work on the Council and advised them that he and Governor Martz would be addressing a press conference later that day presenting the combined liquor/gambling license application process. Mr. Scott asked Attorney General McGrath to anticipate what the present time frame of up to 182 days would be shortened to with the new process. Mr. McGrath stated that it would range from 30-90 days depending on the situation. Mr. Carson requested that the Division track the time it takes to process the new applications and report back to the Council at the next meeting. Mr. Huntington explained that two reports would be generated. Mr. Huntington informed the Council that the guide to the new process and the application itself is available on the internet site.

OTHER ISSUES

Mr. Tooke moved that the Division pursue adoption of a rule allowing bill acceptors to accept \$1 - \$20 bills. Mr. Thomas seconded the motion. Mr. Huntington stated that it believed the legislative intent of the bill which authorized dial-up did not intend to change the denomination of the bill acceptors. The motion passed 7-1 with Chairman Mahlum dissenting.

Mr. Thomas requested that the Council send a letter to Montana Council on Problem Gambling advising them to inform social workers, District Judges, 12 - step programs etc. off the resources available for this issue. Chairman Mahlum appointed Mr. Thomas Chairman of a sub-committee on this issue. Mr. Morris and Rep. Witt were appointed to this committee and will meet with industry and report back to the Council at the next meeting.

ACTION ON PROPOSALS

The Council revisited the issue of Gambling Control Division funding and Mr. Taylor reiterated his position that the Division needs funding for adequate staffing, dial-up and for a sound regulatory environment. Mr. Tooke stated that it is in their self-interest that the industry be well regulated and believed that the revenue that is generated by the industry , i.e. tax revenues, should provide the funding. Mr. Morris agreed with this assessment. Mr. Scott stated that he believed that it would be difficult to get funds out of the general fund in the next session. He said that there had been no increase in permit fees in many years and stated that the cost should be shared between permit fees and general fund. Chairman Mahlum requested that the Division gather more information on this because there would be a public outcry over an increase in fees at a time when there is an initiative to abolish gambling.

Mr. Huntington distributed the enabling legislation and Senate Bill 162. The Council discussed penalties and the revenue dedication guidelines. Mr. Huntington suggested the Council send a letter to the interim finance committee subcommittee to explain the Division's funding dilemma. No action was taken on the suggestion. Mr. Huntington was requested to review the schedule of the interim finance committee.

FINAL BUSINESS

The Council agreed to meet in Helena on June 28th from 11 a.m. - 4 p.m.

The meeting adjourned at 9:34 a.m.